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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

Report of the open-ended working group on structural adjustment programmes and economic, social and cultural rights on its first session

(Geneva, 3-7 March 1997)

Chairperson-Rapporteur: Ms. Lilia Bautista (Philippines)

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Introduction

1. At its fifty-second session, the Commission on Human Rights, in its decision 1996/103, decided to establish an open-ended working group of the Commission to meet for a period of one week prior to its fifty-third session to elaborate, on the basis of the preliminary set of basic policy guidelines on structural adjustment programmes and economic, social and cultural rights contained in document E/CN.4/Sub.2/1995/10 and in close cooperation with the Committee on Economic, Social and Cultural Rights, policy guidelines on the subject-matter.

2. In order to perform the tasks entrusted to it, the working group took as a basis a report prepared by the Secretary-General containing a preliminary set of basic policy guidelines on structural adjustment programmes and economic, social and cultural rights (E/CN.4/Sub.2/1995/10) as well as a document containing comments on the preliminary set of basic policy guidelines transmitted by Governments, specialized agencies and non-governmental organizations (E/CN.4/1997/WG.17/2).

3. The present report describes the proceedings of the open-ended working group. The principles, policy guidelines for action at the national level and policy guidelines for action at the international level, that were either discussed by the working group or not discussed due to the lack of time, have been annexed (annex I).

Opening and duration of the session

4. The open-ended working group on structural adjustment programmes and economic, social and cultural rights was held at the Palais des Nations, Geneva, from 3 to 7 March 1997. The session was opened by a representative of the High Commissioner for Human Rights. The working group held six plenary meetings and two informal meetings.

Composition of the working group and attendance

5. The open-ended working group consisted of the following representatives of States members of the Commission on Human Rights: Algeria, Brazil, Chile, China, Colombia, Cuba, Egypt, El Salvador, Ethiopia, Germany, India, Japan, Malaysia, Mexico, Nepal, Netherlands, Nicaragua, Philippines.

Observers

6. The following observers from other States Members of the United Nations attended the session: Costa Rica, Holy See, Nigeria, Peru, Poland, Portugal, Spain, Thailand, Tunisia.

7. The following specialized agencies were represented at the session: International Labour Organization, International Monetary Fund, World Bank.

8. Representatives of the following non-governmental organizations attended the session: International Movement ATD Fourth World, World Federation of Democratic Youth, American Association of Jurists, International Service for

Human Rights, Women's International League for Peace and Freedom, War Resisters' International, World Christian Life Community, Education International, Organization of African Trade Union Unity.

Election of officers

9. At its first meeting, the working group elected Ms. Lilia Bautista (Philippines) as Chairperson-Rapporteur.

Adoption of the agenda

10. At its first meeting, the working group adopted the following agenda:

1. Election of officers.

2. Adoption of the agenda.

3. Implementation of Commission on Human Rights decision 1996/103, entitled "Effects of structural adjustment policies on the full enjoyment of human rights".

Documentation

11. A list of the documents that were before the working group is contained in annex II.

Organization and method of work

12. In order to facilitate the work of the working group, the Chairperson suggested and the working group agreed, that a working paper on principles should be prepared by delegations from the Latin American region, a working paper on policy guidelines for action at the national level should be prepared by delegations from the Asian region, and a working paper on policy guidelines for action at the international level should be prepared by delegations from the African region. Other delegations were not in a position to assist in this preparatory work.

I. GENERAL DISCUSSION

13. While some delegations noted that there was a need to update the report of the Secretary-General containing a preliminary set of basic policy guidelines on structural adjustment programmes and economic, social and cultural rights (E/CN.4/Sub.2/1995/10), a number of other delegations considered that it was a valuable and useful document.

14. In the view of one delegation document E/CN.4/Sub.2/1995/10 was not an adequate basis for working on the subject of the effects of the structural adjustment programmes on the full enjoyment of human rights. Many articles of the document were outdated and based on an ideological approach, whereas any approach to the subject should be impartial and objective. In addition, it exceeded the mandate of a human rights working group by recommending detailed social, political and economic programmes at the national and international levels, and guidelines for international cooperation, some of which were not

directly linked to the impact of structural adjustment programmes. The representative of that delegation suggested that the mandate should be extended to all human rights. However, other delegations considered that to do so would exceed the mandate the Commission on Human Rights had given to the working group and was beyond its scope.

15. At its third meeting, on 5 March 1997, the representative of IMF made a presentation on IMF/World Bank supported structural adjustment programmes which he said were aimed at promoting high-quality growth which would lead to the enhancement of living standards and the quality of life for all around the globe. He outlined the key ingredients of adjustment and reform that provide the recipe for such growth: sound macroeconomic policies, i.e., a firm anti-inflationary monetary policy, a sustainable fiscal strategy and a realistic exchange rate; appropriate structural policies that provided a market-friendly environment for growth, together with a development strategy focused on growth and suited to the country's resources and needs; a liberal trade and exchange regime that fostered international trade and investment; sound and active social policies, including well-targeted social safety nets that alleviated poverty and protected the most vulnerable from any short-term adverse impact of adjustment and reform, as well as policies that promoted greater equality of opportunity; and, good governance which referred to the need for publicly accountable government, participatory government, and legal and regulatory frameworks that were transparent, fair and limited to what was strictly necessary. He underlined, however, that while those ingredients and reform policies were needed for the attainment of high-quality growth, IMF should not and could not be seen as the guardian of each and every one of them. The role of IMF was to foster fiscal consolidation; firm anti-inflationary policies, liberalization of financial sectors and pursuit of a realistic exchange rate; opening up of the economy to international trade, foreign capital and competition; price liberalization; and public enterprise reform.

16. The presentation was followed by questions and comments from participants. Clarification was sought on whether the restructuring of developing country economies was, in fact, intended to extract as much debt repayment as possible so as to avoid the equitable sharing of loan losses between the creditors and borrowers, and to make those economies conform to a single economic model compatible with the long-term interests of a world economy dominated by the rich industrialized countries. Questions also related to the impact of such programmes on commodity prices and on the environment and natural resource base of developing countries resulting from the competitive rush by all adjusting countries to simultaneously expand their exports in shrinking international markets; the failure to take into account specific conditions of countries; problems related to competitive currency devaluation resulting from the requirement to liberalize foreign currency; the reduction in the availability of resources for the realization of economic, social and cultural rights resulting from stringent budgetary policies, the weakening of the role of the State, and liberal trade regimes; the need to develop an indigenous private sector in the context of privatization of public enterprises and social services and the increased role of a non-indigenous private sector less sensitive to both market and social signals; social consequences of reducing public expenditure; the ability of IMF to be the guardian of the international financial system as an overwhelming share of international financial flows were diverted from productive investment to financial speculation; the meaning of "available" or "limited" resources in the

context of huge international financial flows towards speculation; the role of IMF in post-conflict situations and its attitude to peace agreements, particularly in Central America, aimed at promoting development and improving the well-being of the population; the impact on human rights of the emphasis on economic over human values; measures envisaged by IMF, other than social safety nets, to counter the increased social, economic and political marginalization of vulnerable sectors of the population; the use of social indicators; the ability of new IMF/World Bank initiatives to resolve the debt burden of heavily indebted countries; the extent of consultation with ILO in formulating structural adjustment programmes.

17. In his reply, the representative of IMF underlined that economic forums are designed to engage all countries in a multilateral process based on non-discrimination and freedom of transaction. The IMF initiative in favour of heavily indebted poor countries was a recognition of growing debt owed to multilateral institutions. The objective of structural adjustment programmes was to enable developing countries to have more normal commercial relations with other countries, since access to international capital and increased exports were essential for development and growth. While recognizing that the simultaneous export of the same product by all adjusting countries was a problem, he drew attention to a general consensus that a growth strategy based on an open economy was more efficient than that based on a closed economy. He also explained that IMF policy prescriptions were never uniform but took account of the specific situation of each country. With regard to budgetary stringency, he stated that the aim of structural adjustment programmes was displacement, i.e. to ensure a shift from unproductive to productive expenditure. In his view, while it was not possible to tell what the results would have been without structural adjustment programmes, countries that had implemented them more rapidly and in a sustained manner had shown better economic performance than those that had not. With regard to the foreign debt crisis, he underlined that borrowing must be limited to the ability of a country to repay. On the IMF role in post-conflict situations, he stated that while it provided technical assistance and policy advice, the amount it lent depended on the urgency of the situation and on progress made in policy formulation. Recognizing that structural adjustment programmes were having a negative social impact, he considered that solutions must be found through, inter alia, targeted safety nets. He drew attention to the good relations existing between IMF and the Commission on Human Rights and said that cooperation with ILO was developing.

18. At its fifth meeting, on 6 March 1997, the representative of the World Bank made a presentation on structural adjustment programmes which he said were necessary to enhance economic growth and create macroeconomic stability. However, the World Bank had learned from experience that macroeconomic stability alone was insufficient to eradicate poverty. Recognizing the extent of poverty and inequalities in the distribution of income in the world, he underlined the need to modernize economies, ensure economic growth, eradicate poverty through a flexible approach, ensure higher incomes and provide the services needed by the population. He also emphasized the need to focus on both equity and efficiency. Furthermore, popular participation and the role of education were important factors for the

elimination of poverty. Moreover, it was not the intention of the World Bank to focus on cuts in social and health programmes, and the central goal of the World Bank was to eradicate poverty.

19. The presentation was followed by questions and comments from participants. They related to the balance between the right to development and structural adjustment programmes; the impact of conditionalities on national sovereignty and the ability of States to make independent policy decisions; the conflict of interest between government constituencies, composed of electors, and that of the World Bank, composed of shareholders: the impact of debt servicing on the allocation of resources to education and other social services; the impact of social expenditure cuts and labour market flexibility on access to jobs; the balance between economic interest and theory, on the one hand, and social interests and the attainment of social goals and social stability, on the other; excessive interest rates; the growing imbalance between private and public investment; policies envisaged by the World Bank to modify and channel the huge mass of international financial flows from speculation to social development; the conflict between World Bank understanding of "good governance", reflected in its advocacy of judicial reforms aimed at promoting privatization and free markets, and the concerns of human rights bodies aimed at protecting human rights; the World Bank approach to poverty alleviation; the use of social indicators.

20. In his reply, the representative of the World Bank said that the Bank was sensitive to the right to development. He underlined that there was complementarity of action between Governments and the World Bank: while the Bank made proposals it remained the responsibility of States and of society to implement them. He pointed out that the constituency of the World Bank was composed of Governments and that even though the interests of the rich countries were to some extent reflected in its attitudes, Bank staff tended to identify with those experiencing difficulties rather than with its shareholders. Decision-making in today's capital markets lay with money managers and not with the World Bank. He also said that it was not the Bank's policy to cut social expenditures; rather it was allocating resources for social safety nets. He considered that labour market flexibility was in the interest of the poor and that minimum wage legislation lead to reductions in who were employment. He believed that there was a conflict of interest between those employed in the formal market and enjoyed union protection and others who did not. Hence, protection of the former would be at the expense of the latter. With regard to the ability of the Bank to influence international financial flows from speculation to social development, he said that its influence was limited; however, it was helping countries create the necessary conditions to attract foreign investments and improve the enforceability of contracts. With regard to "good governance", he said that because of the Bank's mandate, judicial reform was limited to improving economic performance and ensuring the speedy conclusion of contracts between private investors. The World Bank was also making efforts to formulate social indicators and to improve the quality of jobs, including working conditions. High quality education accompanied by productivity and social programmes was essential to poverty eradication.

21. The working group initially identified the principles that might be the relevant and maybe subject of future discussion, with a view to establishing a

clear linkage between these principles and structural adjustment programmes as they impinged on economic, social and cultural rights. The working group identified certain principles in the report of the Secretary-General which it considered could be looked into for further discussion on their relationship with structural adjustment programmes. The working group noted that, owing to lack of time, it was unable to elaborate other relevant principles, which could be identified at a later stage. The principles identified are contained in annex I, section A.

22. In addition, in the course of its work, the working group elaborated further principles to be considered at its next session. These have also been included in annex I, section A.

23. The working group believed that the report on national policies contained obligations of States under various covenants which may or may not be directly relevant to structural adjustment programmes. The working group, however, agreed that the policies annexed might have more relevance to the subject. (See annex I, sect. B.)

24. With respect to action at the international level, the working group decided to annex a working paper (annex I, sect. C). Owing to the lack of time, this paper was not discussed.

II. RECOMMENDATIONS

25. Taking note of the elements contained in document E/CN.4/Sub.2/1995/10, the Working Group on structural adjustment programmes and economic, social and cultural rights recommends to the Commission on Human Rights that:

1. The open-ended working group on structural adjustment programmes and economic, social and cultural rights meet again for one week, at least four weeks before the fifty-fourth session of the Commission on Human Rights, with a mandate to:

(a) Gather and analyse information on the effects of structural adjustment programmes on the realization of economic, social and cultural rights;

(b) Elaborate basic policy guidelines on structural adjustment programmes and economic, social and cultural rights which could serve as a basis for a continued dialogue between human rights bodies and the international financial institutions.

2. In order to enable the working group to carry out its mandate the Commission:

(a) Appoint an independent expert, preferably an economist with specialization in the area of structural adjustment programmes, to undertake a study on the effects of structural adjustment policies on

economic, social and cultural rights 1/ in cooperation with the Centre for Human Rights. The expert should update previous work done on this subject within the United Nations, as well as outside, and submit a consolidated study, including a draft set of guidelines, to the Commission on Human Rights at its fifty-fourth session. The expert should be appointed by the Chairman of the Commission on Human Rights in consultation with the regional groups;

(b) Request the Secretary-General to circulate the study to Governments, United Nations bodies, in particular the regional commissions, specialized agencies and intergovernmental organizations, as well as non-governmental organizations, particularly development NGOs, and academic institutions and organizations representing disadvantaged and vulnerable groups, to submit their comments thereon to the working group at its next session;

(c) Request the Secretary-General to invite specially and encourage development NGOs working in the field to participate actively in the sessions of the Working Group.

1/ One delegation was of the view that the mandate should be extended to include the full enjoyment of human rights (refer to para. 14 of this report).

Annex I

TEXT OF PRINCIPLES AND POLICY GUIDELINES DISCUSSED BY THE WORKING GROUP OR PROPOSED FOR ITS FUTURE CONSIDERATION

A. Principles based on a working paper prepared by Latin American delegations participating in the working group

1. Principles discussed by the working group

1. By virtue of the principle of equal rights and self-determination of peoples enshrined in the Charter of the United Nations, all peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter.

2. Every State has the primary responsibility to promote the economic, social and cultural development of its people, to choose its means and goals of development, fully to mobilize and use its resources, to implement progressive economic and social reforms and to ensure the full participation of its people in the process and benefits of development. All States have the duty, individually and collectively, to cooperate in eliminating obstacles that hinder such mobilization and use.

3. Each Government has the primary role and ultimate responsibility of ensuring the social progress and well-being of its people.

4. All human rights and fundamental freedoms are indivisible and interdependent; equal attention and urgent consideration should be given to the implementation, promotion and protection of civil, political, economic, social and cultural rights.

5. Based on a people's own efforts, the strategy of rapid economic and social progress cannot be deduced from single models or rigid formulas: it must be drawn up in the light of national conditions and characteristics and necessitates a commitment on the part of each State and the cooperation of all States.

6. The human person is the central subject of development and should be the active participant and beneficiary of the right to development. Development policies should aim at the constant improvement of the well-being of the entire population and of all individuals, on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting therefrom.

7. States have a duty to cooperate with each other in ensuring development and eliminating obstacles to development.

8. States should realize their rights and duties in such a manner as to promote a new international economic order based on sovereign equality, interdependence, mutual interest and cooperation among all States, as well as to encourage the observance and realization of human rights.

9. States should cooperate in facilitating more rational and equitable international economic relations and in encouraging structural changes in the context of a balanced economy in harmony with the needs and interests of all countries, especially developing countries, and should take appropriate measures to this end.

10. Structural adjustment programmes, in the context of the attainment of macroeconomic balance, should contribute to modernization, diversification and growth of the economies of the developing countries and, at the same time, to the fulfilment of the aim of improving the human condition, including standards of living and the quality of life and the health, education and employment of the population, especially of low-income and vulnerable groups of the population.

11. The right to choose any economic, social and cultural system and economic development models.

12. Non-interference in the internal political affairs of States.

13. Non-discrimination.

14. Sovereignty of States over their natural resources.

15. The need for international cooperation.

16. Non-use of food as a tool for political pressure.

2. Principles not contained in any international instrument or declaration, discussed by the working group

17. Both the borrowing countries and the international financial institutions should bear in mind human rights dimensions (aspects) in their negotiations on structural adjustment programmes.

18. International financial institutions should adopt a more flexible approach in negotiations with borrowing countries, taking into account not only macroeconomic but social indicators as well, both at the national and regional levels.

19. In the event of privatization, emphasis should be given to the need to create a private sector indigenous to the country concerned. This is important as the prevailing view is that the private sector should be the main engine of economic growth. The creation of market conditions through privatization can, in most cases, lead to a substantial reduction in the wastage of resources and enhance resource allocation through the price mechanism. However, it must be recognized that the poor must be accommodated in one way or another. In this connection, it is essential for the Government to develop an incentive structure to enable the private sector to contribute towards these social initiatives. It is also pertinent to note that an indigenous private sector would be more responsive to both market and social signals.

20. Connected to this, one way to facilitate the creation of an indigenous private sector is to create an enabling environment for the informal sector to develop unhindered, especially those entrepreneurial activities which are

legally and morally acceptable. It has been observed that in periods of economic crisis, the informal sector takes on an active role and therefore has the capacity to promote overall welfare gains for a large section of the population.

3. Principles not discussed in depth by the working group owing to lack of time (to be considered by the working group at its next session)

21. Structural adjustment policies must be in conformity with the provision of article 28 of the Universal Declaration of Human Rights, which states: "Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized".

22. The policies of the World Bank and IMF must be brought into line with international human rights standards and the structures of the two institutions must be democratized and made subject to monitoring and guidance by the Economic and Social Council and the General Assembly, in conformity with Articles 57, 58 and 63 of the Charter of the United Nations.

23. Establishment of fair prices in the international market for raw materials and manufactures from the developing countries and the opening up of markets of the wealthy countries to these materials and products.

24. International financing institutions should effectively play their roles as development financing banks without discrimination on account of the political or economic system of any member country, assistance being untied.

25. Economic growth and development in developing countries should be revived and the political and social costs of structural adjustment programmes should be reduced to guarantee the necessary conditions for the full enjoyment of all human rights.

26. Equality in international economic relations.

27. Non-use of economic, political, social and cultural embargos as a tool for political pressure.

B. Policy guidelines for action at the national level given the conditions imposed by the international financial institutions* based on a working paper prepared by Asian delegations participating in the Working Group

1. National policies discussed by the Working Group

(a) Popular participation

28. Legislative and regulatory frameworks, institutional arrangements and consultative mechanisms should be established to ensure the effective

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* One delegation was of the view that the words "Given the conditions imposed by the international financial institutions" should be deleted.

participation of all the elements of society in the formulation, planning, implementation and evaluation of national strategies, policies and programmes of economic and social development, as well as in the monitoring and supervision of their implementation.

29. States should encourage creative initiative under conditions of enlightened public opinion. States should simplify administrative regulations, disseminating information about public policy issues and initiatives for collective interests, and facilitating maximum access to information.

30. States should ensure greater transparency in negotiations and agreements between States, including the publication and widest possible dissemination of proposed and final agreements concerning financial aid, debt repayment and monetary policy.

(b) Equal opportunity and equal access to productive resources

31. States should analyse policies and programmes, including those relating to macroeconomic stability, structural adjustment programmes, taxation, investments, employment, markets and all relevant sectors of the economy, with respect to their impact on poverty and inequality, employment and social development, and assess their impact on family well-being and conditions, as well as their gender implications, and adjust them, as appropriate, to promote a more equitable distribution of productive assets, wealth, opportunities, income and services.

32. States should ensure, inter alia, equality of opportunity for all in their access to basic resources, education, health services, food, housing, employment and the fair distribution of income.

33. States should ensure that education and training programmes respond to changes in the economy, provide full and equal access to training opportunities and secure the access of women to training programmes.

34. States should safeguard and promote respect for basic workers' rights, including the prohibition of forced labour and child labour, equal remuneration for men and women for work of equal value, and non-discrimination in employment, fully implementing the conventions of the International Labour Organization if they are parties to those conventions and taking into account the principles embodied in those conventions if they are not, to thus achieve truly sustained economic growth and sustainable development.

35. States should promote democratically-based social and institutional reforms and motivation for change basic to the elimination of all forms of discrimination and exploitation and conducive to high rates of economic and social progress.

(c) Equal access to social services

36. While special attention must be paid to the question of targeted public expenditure for the poor and to social safety nets, general economic policies should be designed in a way which would reduce the need for such measures.

2. National policies not discussed by the Working Group owing to lack of time (to be considered by the Working Group at its next session)

37. Creation of fiscal and credit incentives for microenterprises and for small and medium-sized firms.

38. Ensuring the regulatory role of States in implementing economic development and social investment policies.

39. Orientation of wage policy towards a fairer distribution of the national product, and of social security policy towards full coverage of situations of unemployment, disability and illness, dependency allowances and old-age pensions.

C. Policy guidelines for action at the international level

Working paper prepared by the African delegations participating in the Working Group: not discussed owing to lack of time (to be considered at its next session)

1. Conditionality or any kind of external pressure or intervention in the internal or external affairs of a State

40. Every State has the sovereign and inalienable right to choose its economic system as well as its political, social and cultural systems in accordance with the will of its people, without outside interference, coercion or threat in any form whatsoever. 1/

41. No State or group of States has the right to intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. 2/

42. The right of every country to adopt the economic and social system that it deems the most appropriate for its own development and not be subjected to discrimination of any kind as a result. 3/

43. All peoples have the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development, and every State has the duty to respect this right in accordance with the provisions of the Charter. 4/

44. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence. 5/

45. Full permanent sovereignty of every State over its natural resources and all economic activities. In order to safeguard these resources, each State is entitled to exercise effective control over them and their exploitation with means suitable to its own situation, including the right to nationalization or transfer of ownership to its nationals, this right being an expression of the full permanent sovereignty of the State. No State may be subjected to economic, political or any other type of coercion to prevent the free and full exercise of this inalienable right. 6/

46. Every country has the sovereign right freely to dispose of its natural resources in the interest of the economic development and well-being of its own people; any external, political or economic measures or pressures brought to bear on the exercise of this right is a flagrant violation of the principles of self-determination of peoples and non-intervention, as set forth in the Charter of the United Nations and, if pursued, could constitute a threat to international peace and security. 7/

47. States have the duty to cooperate with one another, irrespective of the differences in their political, economic and social systems, in the various spheres of international relations, in order to maintain international peace and security and to promote international economic stability and progress, the general welfare of nations and international cooperation free from discrimination based on such differences. 8/

48. All States have the duty to conduct their mutual economic relations in a manner which takes into account the interests of other countries. In particular, all States should avoid prejudicing the interests of developing countries. 9/

49. States shall conduct their international relations in the economic, social, cultural, technical and trade fields in accordance with the principles of sovereign equality and non-intervention. 10/

50. Every State should cooperate with the efforts of developing countries to accelerate their economic and social development by providing favourable external conditions and by extending active assistance to them, consistent with their development needs and objectives, with strict respect for the sovereign equality of States and free of any conditions derogating from their sovereignty. 11/

51. Economic and financial agreements between the developed and the developing countries must be based on the principle of equality and of the right of peoples and nations to self-determination. 12/

52. No State may use or encourage the use of economic, political or any other type of measures to coerce another State in order to obtain from it the subordination of the exercise of its sovereign rights and to secure from it

advantages of any kind. 13/ Such measures include economic pressure designed to influence the policy of another country or to obtain control of essential sectors of its national economy. Aid and technical assistance can serve to cloak interference in the domestic affairs of other States. Their use for that purpose would constitute a form of intervention. 14/

53. Extension of active assistance to developing countries should be guaranteed by the whole international community, free of any political or military conditions. 15/

54. The provision of economic and technical assistance, loans and increased foreign investment must not be subject to conditions which conflict with the interests of the recipient State. 16/

55. There should be a general easing of the terms of lending to the developing countries through low interest rates on loans and long grace periods for the repayment of loans, and an assurance that the allocation of such loans will be based strictly on socio-economic criteria free of any political considerations. 17/

56. In cases where authorization is granted, the capital imported and the earnings on that capital shall be governed by the terms thereof, by the national legislation in force, and by international law. The profits derived must be shared in the proportions freely agreed upon, in each case, between the investors and the recipient State, due care being taken to ensure that there is no impairment, for any reason, of that State's sovereignty over its natural wealth and resources. 18/

57. The development of natural resources which can be utilized for the domestic needs of the underdeveloped countries and also for the needs of international trade, provided that such commercial agreements shall not contain economic or political conditions violating the sovereign rights of the underdeveloped countries, including the right to determine their own plans for economic development. 19/

58. Economic relations between countries, including trade relations, shall be based on respect for the principle of sovereign equality of States, self-determination of peoples, and non-interference in the internal affairs of other countries. 20/

59. Every State has the right to engage in international trade and other forms of economic cooperation irrespective of any differences in political, economic and social systems. No State shall be subjected to discrimination of any kind based solely on such differences. 21/

60. States should refrain from any unilateral measures not in accordance with international law and the Charter of the United Nations that creates obstacles to trade relations among States and impedes the full realization of the human rights set forth in the Universal Declaration of Human Rights and international human rights instruments, in particular the right of everyone to a standard of living adequate for their health and well-being, including food and medical care, housing and the necessary social services. 22/

61. Food should not be used as a tool for political pressure. 23/

62. Technical cooperation should not be used to impose models of economic development on a recipient country if those models do not fully take into account the policy framework and development strategies of that country. 24/

63. Each State has the right to regulate and exercise authority over foreign investment within its national jurisdiction in accordance with its laws and regulations and in conformity with its national objectives and priorities. No State shall be compelled to grant preferential treatment to foreign investments. 25/

64. Every State has the right to regulate and supervise the activities of transnational corporations within its national jurisdiction and take measures to ensure that such activities comply with its laws, rules and regulations and conform with its economic and social policies. Transnational corporations shall not intervene in the internal affairs of a host State. Every State should, with full regard for its sovereign rights, cooperate with other States in the exercise of the right set forth in this subparagraph. 26/

65. States should achieve food security by ensuring a safe and nutritionally adequate food supply, at both the national and international levels, a reasonable degree of stability in the supply of food, as well as a physical, social and economic access to enough food for all, while reaffirming that food should not be used as a tool for political pressure. 27/

66. International financing institutions should effectively play their role as development financing banks without discrimination on account of the political or economic system of any member country, assistance being untied. 28/

Availability of external resources

67. States should pursue internal and external economic policies designed to accelerate growth throughout the world, and in particular to help promote, in developing countries, a rate of growth consistent with the need to bring about a substantial and steady increase in average income. 29/

68. More appropriate conditions should be established for a balanced exchange of resources between North and South. There is a need for greater transfers internationally as well as a redirection of current resources. 30/

69. All States should respond to the generally recognized or mutually agreed development needs and objectives of developing countries by promoting increased net flows of real resources to the developing countries from all sources. 31/

Foreign debt

70. Any foreign debt strategy must be designed not to hamper the steady improvement of conditions guaranteeing the enjoyment of human rights and must be intended, inter alia, to ensure that debtor developing countries achieve an adequate growth level to meet their social and economic needs and their development requirements. 32/

71. The alleviation of debt and debt-service burdens of developing countries with debt problems should take place in the framework of the realization of economic, social and cultural rights. 33/

72. The new strategies for solving the debt problem, of both official and private origin, require policies of economic adjustment accompanied by growth and development. It is essential, within those policies, to give priority consideration in their implementation to human conditions, including standards of living, health, food, education and employment of the population, especially among the most vulnerable and low-income groups. 34/

73. Debt payments should not take precedence over the basic rights of the people of debtor countries to food, shelter, clothing, employment, health services and a healthy environment. 35/

74. Measures should be adopted to substantially reduce the bilateral debts of the least developed countries, in particular the countries of Africa, as soon as possible. 36/

75. Creditor countries and multilateral financial institutions should continue to extend concessional financial assistance in order to support the implementation by the developing countries of their economic reform programmes. 37/

External trade

76. Assistance should be provided to monitor the impact of trade liberalization on progress made in developing countries to meet basic human needs, giving particular attention to new initiatives to expand the access of developing countries to international markets. 38/

77. Efforts should be made to ensure that developing countries do not lag behind as a result of new rules governing international trade relations. 39/

Transnational corporations

78. States should eliminate all forms of foreign economic exploitation, particularly that practised by international monopolies, in order to enable the people of every country to enjoy in full the benefits of their national resources. 40/

79. All efforts should be made to formulate, adopt and implement an international code of conduct for transnational corporations: (a) to prevent interference in the internal affairs of the countries where they operate; (b) to regulate their activities in host countries, to eliminate restrictive business practices and to conform to the national development plans and objectives of countries, and in this context facilitate, as necessary, the review and revision of previously concluded arrangements; (c) to bring about assistance, transfer of technology and management skills to developing countries on equitable and favourable terms; (d) to regulate repatriation of the profits accruing from their operations, taking into account the legitimate interests of all parties concerned; (e) to promote reinvestment of their profits in developing countries. 41/

Development assistance

80. The necessary level of financial and other resources should be provided, sufficient to attain the goals set by appropriately designed adjustment packages. 42/

81. Existing policies of development assistance should be continuously examined with a view to expanding the proportion of development assistance committed to human priority areas and social sectors. 43/

82. Technical, financial and material assistance, both bilateral and multilateral, should be provided to the developing countries, to the fullest possible extent and on favourable conditions, to facilitate the direct exploitation of their national resources and natural wealth by those countries with a view to enabling the peoples of those countries to benefit fully from their national resources. The coordination of international assistance should be improved for the achievement of the social objectives of national development plans. 44/

83. Measures should be taken to provide technical assistance and expanded transfer of technology to developing countries to integrate technology and employment policies with other social objectives, and to establish and strengthen national and local technology institutions. 45/

84. Assistance should be provided for social-sector activities, such as the rehabilitation and development of social infrastructure, including in the form of grants or soft loans. 46/

85. Assistance should be provided to countries to strengthen or rebuild their capacities for formulating, coordinating, implementing and monitoring integrated strategies for social development. 47/

86. Government policies and programmes to promote social development should be enhanced by strengthening the coordination of all efforts by national and international actors, strengthening the efficiency and operational capacity of public management structures, and facilitating the effective and transparent use of resources, taking due account of the recommendations and follow-up to Agenda 21. 48/

87. Preference should be given, wherever possible, to the utilization of competent national experts or, where necessary, competent experts from within the subregion or region or from developing countries in project and programme design, preparation and implementation, and to the building of local expertise where it does not exist. 49/

88. Official development assistance should be increased, both in total and for social programmes and improving its impact, consistent with countries' economic circumstances and capabilities to assist, and consistent with commitments in international agreements, and striving to attain the agreed upon target of 0.7 per cent and of gross national production for official development assistance and 0.15 per cent to the least developed countries, as soon as possible. 50/

Adjustment in developed countries

89. Developed countries should assist the developing countries in their efforts to speed up their economic and social progress, should cooperate in measures taken by developing countries for diversifying their economies, and should encourage appropriate adjustments in their own economies to this end. 51/

90. Developed countries should undertake an objective and critical examination of their present policies and make appropriate changes in such policies so as to facilitate the expansion and diversification of imports from developing countries and thereby make possible international economic relations on a rational, just and equitable basis. 52/

91. In order to facilitate market access, particularly in the areas of interest to developing countries, developed countries should undertake appropriate structural adjustment in their own economies. It is urgent to achieve an improvement in market access conditions for commodities, notably through the progressive removal of barriers that restrict imports, particularly from developing countries, of commodity products in primary and processed forms, as well as the substantial and progressive reduction of types of support that induce uncompetitive production, such as production and export subsidies. 53/

International institutions

92. The appropriate United Nations bodies and specialized agencies should take into account the need to achieve social justice for all when considering social development issues and observance of human rights. 54/

93. Measures should be taken to ensure coordination within the United Nations system in order to develop a comprehensive approach to developmental social welfare, including integrated and mutually supportive economic and social development policies, focused on the achievement of social justice. 55/

94. Care should be taken to avoid dissociating the economic and monetary aspects of development from its social aspects and to enhance the dialogue between international social and humanitarian agencies and international institutions responsible for financial and trade questions. 56/

95. The balance must be preserved between economic and social development. The concepts contained in the Declaration on the Right to Development must form, within their areas of competence, an integral part of the policies and programmes of all United Nations bodies and agencies, including the Bretton Woods institutions and the World Trade Organization. 57/

96. States should ensure that the World Bank, the International Monetary Fund, the regional and subregional development banks and funds, and other international finance organizations further integrate social development goals in their policies, programmes and operations, including by giving higher priority to social-sector lending, where applicable, in their lending programmes. 58/

97. States, in cooperation with international financial institutions and other international organizations, should protect basic social programmes and expenditures, in particular those affecting the poor and vulnerable segments of society, from budget reductions. 59/

98. States, in cooperation with international and regional financial and development institutions and other international organizations, should review the impact of their policies and programmes, including structural adjustment programmes, on the enjoyment of human rights and on social development by means of gender-sensitive social-impact assessments and other relevant methods, and develop policies to reduce their negative effects and improve their positive impact. 60/

99. States, in cooperation with international financial institutions and other international organizations, should further promote policies enabling small enterprises, cooperatives and other micro-enterprises to develop their capacities for income generation and employment creation. 61/

100. Urgent and effective measures should be taken to review the lending policies of international financial institutions, taking into account the special situation of each developing country, to suit urgent needs, and to improve the practices of these institutions in regard to, inter alia, development financing and international monetary problems. 62/

101. States should pursue the coordination of macroeconomic policies so that they are mutually reinforcing and conducive to broad-based and sustained economic growth and sustainable development, as well as substantial increases in productive employment expansion and a decline in unemployment worldwide. 63/

102. States should cooperate in creating an enabling international economic and political environment, in particular through the democratization of decision-making in intergovernmental bodies and institutions that deal with trade, monetary policy, and development assistance, and by means of greater international partnership in the fields of research, technical assistance, finance and investment. 64/

103. All efforts should be made to reform the international monetary system with, inter alia, the following objectives:

(a) Measures to check the inflation already experienced by the developed countries to prevent it from being transferred to developing countries, and to study and devise possible arrangements within the International Monetary Fund to mitigate the efforts of inflation in developed countries on the economies of developing countries; 65/

(b) Measures to eliminate the instability of the international monetary system, in particular the uncertainty of the exchange rates, especially as it affects adversely the trade in commodities; 66/

(c) Maintenance of the real value of the currency reserves of the developing countries by preventing their erosion from inflation and exchange rate depreciation of reserve currencies; 67/

(d) There should be full and effective participation of developing countries in all phases of decision-making for the formulation of an equitable and durable monetary system and adequate participation of developing countries in all bodies entrusted with this reform and, particularly, in the Council of Governors of the International Monetary Fund; 68/

(e) There should be a review by the International Monetary Fund of the relevant provisions in order to ensure effective participation by developing countries in the decision-making process; 69/

(f) There should be more effective participation by developing countries, whether recipients or contributors, in the decision-making process in the competent organs of the World Bank and the International Development Association, through the establishment of a more equitable pattern of voting rights. 70/

104. The World Bank should be encouraged to strengthen and further develop its policies relating to poverty reduction and policies intended to address the social aspects of adjustment. In this context, the World Bank should be sensitive to the pronouncements of the human rights bodies of the United Nations and should gradually incorporate human rights criteria in its work at all stages, including in project and policy lending, preparation of policy guidelines, as well as in project and policy appraisal, monitoring and assessment. 71/

105. Other bodies of the United Nations system, including the international financial institutions, should increase their participation in the meetings of human rights bodies, including treaty monitoring bodies. 72/

106. The Commission on Human Rights and the Economic and Social Council should encourage and stimulate non-governmental organizations engaged in development issues in the field to participate actively in the human rights bodies. 73/

107. International non-governmental organizations should be encouraged to increase their contributions to the United Nations organs dealing with economic, social and cultural rights, in terms of information and detailed analyses of the degree to which economic, social and cultural rights are realized in different settings. Such analyses should provide insight into the different problems of the realization of economic, social and cultural rights and the root causes of these problems. 74/

Notes

1/ Charter of Economic Rights and Duties of States, art. 1. See also Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations (General Assembly resolution 2625 (XXV)).

2/ Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.

3/ Declaration on the Establishment of a New International Economic Order (General Assembly resolution 3201 (S-VI)), para. 4 (d).

4/ Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations. See also common art. 1 (1), International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights, General Assembly resolution 1514 (XV) and Security Council resolution 183 (1963).

5/ International Covenants on Economic, Social and Cultural Rights and on Civil and Political Rights, common art. 1 (2).

6/ Declaration on the Establishment of a New International Economic Order, para. 4 (c).

7/ UNCTAD resolution 46 (III), 1972, Proceedings of the United Nations Conference on Trade and Development, Third Session, Vol. 1, Report and Annexes (United Nations publication, Sales No. E.73.II.D.4), annex I, A., pp. 59-60.

8/ Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.

9/ Charter of Economic Rights and Duties of States, art. 24.

10/ Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations.

11/ Charter of Economic Rights and Duties of States, art. 17.

12/ General Assembly resolution 1803 (XVII), seventh preambular para.

13/ Declaration on Principles of International Law concerning Friendly Relations and Cooperation among States in accordance with the Charter of the United Nations; General Assembly resolutions 2131 (XX), para. 2; 2625 (XXV) and 3281 (XXIX), 1974; Charter of Economic Rights and Duties of States, art. 32.

14/ Aureliu Cristescu, The Right to Self-Determination: Historical and Current Development on the Basis of United Nations Instruments, (United Nations publication, Sales No. E.80.XIV.3), para. 538.

15/ Declaration on the Establishment of a New International Economic Order, para. 4 (k).

16/ General Assembly resolution 1803 (XVII) eighth preambular para.

17/ Declaration on Social Progress and Development, art. 23 (b).

18/ General Assembly resolution 1803 (XVII), para. 3.

19/ General Assembly resolution 523 (VI), 1952, ... (ii).

20/ First session of United Nations Conference on Trade and Development, 1964, General Principle One, Proceedings of the United Nations Conference on Trade and Development, Vol. 1, Final Act and Report (United Nations publication, Sales No. 64.II.B.11), pp. 18-21.

21/ Charter of Economic Rights and Duties of States, art. 4.

22/ Vienna Declaration and Programme of Action, Part I, para. 31. See also Copenhagen Declaration and Programme of Action, Part Two, para. 9 (e).

23/ Ibid.

24/ Report of the Working Group on the Right to Development on its third session, op. cit., para. 83.

25/ Charter of Economic Rights and Duties of States, art. 2 (2) (a).

26/ Ibid., art. 2 (2) (b).

27/ Copenhagen Declaration and Programme of Action, Part Two, para. 36 (e).

28/ Programme of Action on the New International Economic Order, II, 2 (b).

29/ First session of UNCTAD, General Principle Four, op. cit.

30/ Report of the Working Group on the Right to Development on its third session, (E/CN.4/1995/27), para. 96.

31/ Charter of Economic Rights and Duties of States, art. 22 (1).

32/ Commission on Human Rights resolution 1989/21, para. 1.

33/ Commission on Human Rights resolutions 1993/12, 1994/11 and 1995/13.

34/ Commission on Human Rights resolutions 1992/9, 1993/12, 1994/11 and 1995/13.

35/ Commission on Human Rights resolutions 1993/12, 1994/11 and 1995/13.

36/ Copenhagen Declaration and Programme of Action, Part Two, para. 90 (b).

37/ Commission on Human Rights resolution 1995/13.

38/ Copenhagen Declaration and Programme of Action, Part Two, para. 88 (b).

39/ Report of the Working Group on the Right to Development on its second session, E/CN.4/1995/11, para. 91.

40/ Declaration on Social Progress and Development, art. 12 (c).

41/ Programme of Action on the Establishment of a New International Economic Order.

42/ Türk, Final report, on the realization of economic, social and cultural rights, E/CN.4/Sub.2/1992/16, para. 196 (d).

43/ Ibid., para. 230.

44/ Declaration on Social Progress and Development, art. 23 (c) and (d).

45/ Copenhagen Declaration and Programme of Action, Part Two, para. 50 (d).

46/ Universal Declaration on the Eradication of Hunger and Malnutrition, para. 88 (e).

47/ Ibid., para. 84 (a).

48/ Ibid., para. 83 (b).

49/ Ibid., para. 88 (h).

50/ Ibid., para. 11 (h).

51/ First session of UNCTAD, General Principle Five, op. cit.

52/ Lima Declaration and Plan of Action, on Industrial Development and Cooperation, Second General Conference of UNIDO, 1975. See also Programme of Action on the Establishment of a New International Economic Order, para. 3 (a) (vii).

53/ Report of the United Nations Conference on Environment and Development, (E/CONF.151/26/Rev.1), vol. I, 1992, para. 2.12.

54/ Economic and Social Council resolution 1989/71, para. 3.

55/ Economic and Social Council resolutions 1988/46 and 1989/71.

56/ Report of the Working Group on the Right to Development on its second session, op. cit., para. 88.

57/ Report of the Working Group on the Right to Development on its third session, (E/CN.4/1995/27), para. 58.

58/ Copenhagen Declaration and Programme of Action, Part Two, para. 92 (a).

59/ Copenhagen Declaration and Programme of Action, Part Two, para. 91 (a).

60/ Ibid., paras. 91 (b) and 92 (c) and Vienna Declaration and Programme of Action, Part II, para. 2.

61/ Copenhagen Declaration and Programme of Action, Part Two, para. 91 (c).

62/ Programme of Action on the Establishment of a New International Economic Order, IX, 5.

63/ Copenhagen Declaration and Programme of Action, Part Two, para. 49 (a).

64/ Report of the Global Consultation on the Right to Development as a Human Right, (Geneva, January 1990) (HR/PUB/91/2), para. 187.

65/ Programme of Action on the New International Economic Order, II, 1 (a).

66/ Ibid., II, 1 (b).

67/ Ibid., II, 1 (c).

68/ Ibid., II, 1 (d).

69/ Ibid., II, 1 (g).

70/ Ibid., II, 2 (c).

71/ Türk, Final report on the realization of economic, social and cultural rights, E/CN.4/Sub.2/1992/16, para. 231.

72/ Commission on Human Rights resolution 1994/20.

73/ Report of the Working Group on the Right to Development on its third session, op. cit., para. 89.

74/ Türk, Final report, op. cit., para. 244.

Annex II

DOCUMENTS MADE AVAILABLE DURING THE SESSION

Symbol	Title
E/CN.4/1997/WG.17/1	Provisional agenda
E/CN.4/Sub.2/1995/10	Preliminary set of basic policy guidelines on structural adjustment programmes and economic, social and cultural rights: report of the Secretary-General prepared in pursuance of resolution 1994/37
E/CN.4/1997/WG.17/2	Compilation of comments on the preliminary set of basic policy guidelines: note by the Secretariat
E/CN.4/Sub.2/1991/17	Realization of economic, social and cultural rights: second progress report prepared by Mr. Danilo Türk, Special Rapporteur
E/CN.4/Sub.2/1992/16	Realization of economic, social and cultural rights: final report submitted by Mr. Danilo Türk, Special Rapporteur
E/CN.4/1994/21	Report of the Working Group on the Right to Development on its first session
E/CN.4/Sub.2/1995/25	Report of the Secretary-General prepared in pursuance of Commission on Human Rights resolution 1994/11
E/CN.4/1995/11	Report of the Working Group on the Right to Development on its second session
E/CN.4/1995/27	Report of the Working Group on the Right to Development on its third session
E/CN.4/Sub.2/1995/11	The relationship between the enjoyment of human rights, in particular international labour and trade union rights, and the working methods and activities of transnational corporations: background document prepared by the Secretary-General
Sub-Commission resolution 1995/32	Effects on the full enjoyment of human rights of structural adjustment programmes
E/CN.4/1996/10	Report of the Working Group on the Right to Development on its fourth session

E/CN.4/1996/22	Ways and means to carry out a political dialogue between creditor and debtor countries in the United Nations system, based on the principle of shared responsibility: report of the Secretary-General
E/CN.4/1996/24	Report of the Working Group on the Right to Development on its fifth session
E/CN.4/Sub.2/1996/12	The impact of the activities and working methods of transnational corporations on the full enjoyment of all human rights, in particular economic, social and cultural rights and the right to development, bearing in mind existing international guidelines, rules and standards relating to the subject-matter: report of the Secretary-General

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